

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MICHAEL MARTINEZ,)	
Plaintiff,)	
)	
vs.)	Case No. 4:01 CV580
)	
CITY OF ST. LOUIS, et al.,)	
Defendants.)	
<hr style="border: 0.5px solid black;"/>)	
ERIC DEEKEN,)	
Plaintiff,)	
)	
vs.)	Case No. 4:01 CV1770
)	
CITY OF ST. LOUIS, et al.)	
Defendants.)	

ORDER

Before the Court is Plaintiff Deeken's Motion to Extend the Time Within to File his Notice of Appeal (Doc. 292). Also before the Court are numerous Motions relating to Attorney's Fees and Costs (Docs. 256, 260, 275, 277, 284, & 293). For the following reasons, Deeken's Motion to Extend Time is **DISMISSED** as **MOOT**, and the Motions for Attorney's Fees are **STAYED** until further Order of this Court.

I. BACKGROUND

This Court entered judgment in this case by Order dated August 4, 2006 (Doc. 276). On August 15, 2006, Plaintiff Deeken filed a Motion for Reconsideration (Doc. 280)

asking the Court to modify that Order. On August 22, Deeken filed a corrected memorandum in support of his Motion (Doc. 282), and on September 20, Deeken filed the current Motion to Extend the Time Within to File His Notice of Appeal (Doc. 292). The Court held a hearing on September 28, 2006. Plaintiff Martinez and Defendant City have each filed a Notice of Appeal (Docs. 291 & 288). Plaintiffs Martinez and Deeken have also both filed numerous Motions for attorney's fees.

II. ANALYSIS

Before the Court is Plaintiff Deeken's Motion to Extend the Time Within to File his Notice of Appeal (Doc. 292). In his Motion, Deeken states that he "believes, in good faith, that the time for filing a notice of appeal runs from the entry of the Court's order disposing of Deeken's motion to reconsider and modify (amend) the denial, in part, and granting, in part, of his request for equitable relief . . . " (Doc. 292-1 at 1). Although at a recent hearing this Court assured counsel for Plaintiff Deeken that there was sufficient time within which to file a notice of appeal¹, Deeken subsequently filed a Notice of Appeal (Doc.

¹Generally speaking, a party has 30 days from the entry of judgment within which to file a timely notice of appeal. FED. R. APP. P. 4(a)(1)(A) (2006). However, if a party timely files any motion listed in Rule 4(a)(4)(A), the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion. FED. R. APP. P. 4(a)(4)(A). The motions listed in Rule 4(a)(4)(A) include motions to alter or amend the judgment under Rule 59. *Id.* Plaintiff Deeken's Amended Motion for Reconsideration is properly before this Court as a Motion to Amend the Judgment under Rule 59 of the Federal Rules of Civil Procedure. Therefore, pursuant to Rule 4 of the Federal Rules of Appellate Procedure, the time to file an appeal will run from the entry of

296). Therefore, his Motion to Extend Time is now moot.

After recently conferring with the parties, this Court has determined that further proceedings are necessary regarding Deeken's pending Motion for Reconsideration, and the Court will hold a hearing in Martinez v. St. Louis, et al., Case No. 4:01 CV580, and Deeken v. St. Louis, et al., Case No. 4:01 CV1770. The parties will be advised of the date and time of the hearing at a later time. Finally, because Deeken's Motion for Reconsideration is still pending, this Court declines to rule on Motions for Attorney's Fees and Costs until further Order of this Court.

II. CONCLUSION

After careful consideration, **IT IS HEREBY ORDERED** that Plaintiff Deeken's Motion Within to File His Notice of Appeal (Doc. 292) is **DENIED** as **MOOT**.

IT IS FURTHER ORDERED that the Parties' Motions for Attorney's Fees (Docs. 256, 260, 275, 277, 284, & 293) are **STAYED**.

SO ORDERED.

Dated: October 13, 2006


JOHN F. NANGLE
UNITED STATES DISTRICT JUDGE

the order of this Court disposing of Plaintiff Deeken's Motion for Reconsideration.